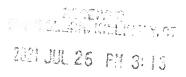


TOWN OF KILLINGLY, CT PLANNING AND ZONING COMMISSION MONDAY – JULY 19, 2021



Regular Meeting – HYDBRID MEETING

TOWN MEETING ROOM – 2ND FLOOR

Killingly Town Hall

172 Main Street

Killingly, CT

DUE TO COVID-19 THE PUBLIC MAY VIEW THIS MEETING AS DESCRIBED BELOW

MINUTES

THE PUBLIC CAN VIEW THIS MEETING ON FACEBOOK LIVE. GO TO www.killinglyct.gov AND CLICK ON FACEBOOK LIVE AT THE BOTTOM OF THE PAGE.

- I. CALL TO ORDER Chair, Keith Thurlow, called the meeting to order at 7:02 pm.
 - ROLL CALL Brian Card, Virge Lorents, John Sarantopoulos, Matthew Wendorf, Keith Thurlow (all were present in person).
 - Staff Present Ann-Marie Aubrey, Director of Planning & Development; Jonathan Blake, Planner I/ZEO (both were present in person); Jill St. Clair, Director of Economic Development (present via Webex).
 - Also Present Ken Slater, Town Attorney (in person); Nicholas H. Durgarian, Douglas Construction Company (via Webex);

 J.S. Perreault, Recording Clerk (via Webex).
 - In the Audience: Mike Cristina, Dayville; Bev Cristina, Dayville; Norm Thibeault, Killingly Engineering Associates; Justin Olsen, Markover Kennels (all were present in person).
- II. SEATING OF ALTERNATES None.
- III. AGENDA ADDENDUM None.
- IV. CITIZENS' COMMENTS ON ITEMS <u>NOT SUBJECT TO PUBLIC HEARING</u> (Individual presentations not to exceed 3 minutes; limited to an aggregate of 21 minutes unless otherwise indicated by a majority vote of the Commission)

NOTE: Pursuant to Governor's Executive Order 7B, all public comments can be emailed to publiccomment@killinglyct.gov or mailed to the Town of Killingly, 172 Main Street, Killingly, CT 06239 on or before the meeting. All public comment must be received prior to 2:00 PM the day of the meeting. Public comment received will be posted on the Town's website www.killingct.gov.

NOTE: To participate in the CITIZENS' COMMENTS— the public may join the meeting via telephone while viewing the meeting on Facebook live.

To join by phone please dial 1-415-655-0001; and use the access code 132-181-7454 when prompted.

Ann-Marie Aubrey read aloud the phone number and access code for the public to comment, and she stated that no comments had been received via e-mail.

V. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS

VI. PUBLIC HEARINGS – (review / discussion / action)

NOTE: To participate in THE PUBLIC HEARINGS – the public may join the meeting via telephone while viewing the meeting on Facebook live.

To join by phone please dial 1-415-655-0001; and use the access code 132-181-7454 when prompted

COMMENTS FROM THE PUBLIC – There were none.

1) Zone Text Change #21-1265; Douglas Construction Company; Special Permitted Use; Add Section 420.2.2.q General Commercial Zone; Special Permitted Use; Distribution Center Facility. — CONT FROM JUNE 21, 2021

There was discussion with Town Attorney, Ken Slater regarding whether Mr. Thurlow should participate or recuse himself from this Application since he was not present at last month's meeting (when this public hearing was opened) and he had not fully reviewed the materials (he read the minutes but did not review the recording). Mr. Thurlow decided to participate.

Ann-Marie Aubrey explained that, for this part of the public hearing, Commission Members had been provided with two copies of the proposed distribution center (one version showing editing and one clean copy for clarity). She stated that Staff had verified with Mr. Card to be sure that all his comments had been addressed.

There was discussion regarding the following:

- 2.d Conditions, development standards.
 It was decided to change "development standards to Zoning Regulations."
- 2.i Which was eliminated because there are no existing distribution centers in the General Commercial Zone as they are, currently, not allowed in the Zone.
- 2.f Adequate landscaping regarding truck loading docks.
 After discussion with the Town Attorney, it was decided not to change this item because special permit allows discretion.

There were no further comments from Commission Members.

Nicholas Durgarian, Douglas Construction Company, explained that he was satisfied with the progress and thanked the Commission.

Jon Blake referred to and read from Definitions under Section 300 regarding planted screenings. Screenings are mentioned under 2.f.

Motion was made by Virge Lorents to close the public hearing for **Zone Text Change #21-1265**; Douglas Construction Company; Special Permitted Use; Add Section 420.2.2.q General Commercial Zone; Special Permitted Use; Distribution Center Facility. Second by Matthew Wendorf. No discussion.

Roll Call Vote: Brian Card – yes; Virge Lorents – yes; Matthew Wendorf – yes; John Sarantopoulos – yes; Keith Thurlow – yes. Motion carried unanimously (5-0-0).

2) <u>Special Permit Application #21-1267</u>; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs.

Norm Thibeault, Killingly Engineering Associates, represented the Applicant and gave a brief history of the facility which has been operating in some form since 1917, when the Applicant's great grandfather started it as a mink farm. In the 1970's, it was converted to a game preserve, and it is currently known as the Markover Game Farm where they have seasonal pheasant hunts. Mr. Thibeault displayed plans as he gave an overview of the proposal:

- Construct a 20-bay kennel for boarding, training, and grooming dogs to be located approximately in the middle of the site.
- Closest residence 451 feet away. Closest property line 266 feet away.
- There are currently two separate parcels (Lot #38-1 and Lot #40) which need to be combined to meet setback requirements as indicated in Note #2 on the plans. Mr. Thibeault stated that this would need to be done before construction of the kennel.
- The kennel to be a rectangular building with an office area in the front with a centrally located hallway and access around the perimeter, ten kennels on each side.
- Fence-in area where the dogs would be able to get exercise outdoors (not during the evening).
- Dogs to be indoors most of the time. Training of hunting dogs outside.
- Existing driveway to be widened to provide two-way traffic to and from the proposed facility.
- Six gravel parking spaces along the main driveway.
- Pull-in area.
- Screened-in dumpster pad.
- Proposed well.
- The site is relatively flat and won't require a lot of earthwork. Slab on grade, a little bit of cutting on the southeastern side, a little bit of fill on the northwest side. The site will balance very nicely.
- No animals will be permanently housed in outside runs or pens.
- Mr. Thibeault explained that when operating a kennel of more than six dogs, it must be licensed with the State of Connecticut. Mr. Thibeault explained that there is quite a list of rules and regulations that the State will require them to adhere to, including climate control, sufficient air exchange, sufficient area for exercise, waste disposal, etc.
- Regarding nuisance of noise, odor or other objectionable effect, Mr. Thibeault noted that they have 160 acres, and
 it is used as a hunting preserve, the dogs are an integral part of it and have been used throughout the years to
 hunt on the property. The only change is that some dogs may now be housed on the property as opposed to being
 brought to the site for the hunting activities.
- Mr. Thibeault said that it will be well screened from any adjacent properties and will not result in any
 objectionable odors due to the requirements of the State. The facility would be inspected on an annual basis by
 the State and if they are not adhering to the State's standards, they could be fined or shut down.

QUESTIONS/COMMENTS FROM THE COMMISSION AND STAFF:

Keith Thurlow:

- Distance to wetlands.
 - Mr. Thibeault referred to Sheet 2 of the Plans and indicated that the corner of the building is approximately 200 feet from the regulated area.
- · Health Department requirements.
 - Mr. Thibeault explained that they will have a bathroom and that they will be required to have a septic system on the site. He explained that they must allow for 25 gallons per day, per kennel (size of leeching area). He said that it will all go into the same septic system, and it is not treated differently from any other septic system.
- Automatic water inside.
 - Justin Olsen, Markover Kennels, explained that there would be staff on-site throughout the process making sure that the dogs are taken care of. Staff hours 7 am to 5 pm and people will also check in at night when the building is closed.
- Is the gravel parking lot on the west side existing?
 Mr. Thibeault stated that nothing there is existing and that everything shown is proposed.

John Sarantopoulos:

What is the difference between a Class D plan and an A-2 survey?
 Mr. Thibeault explained the difference and he stated that they did an A-2 Survey in the vicinity of where the kennel is proposed to make sure that they meet the setbacks required by the Regulations. He said that the property has never been surveyed in its entirety. He said that they verified setbacks to the property lines.

Virge Lorents:

Asked about whether birds are set loose to be hunted.
 Mr. Thibeault stated that they are.

- Asked if the dogs are owned by the facility or if dogs are left there to be trained for hunting.
 Mr. Thibeault explained that the owners will have dogs there and that they would have the ability to house dogs for hunting parties, and they would also have the ability to board dogs (e.g., while their owners are on vacation).
- Will the degree/amount of barking change from what it is already existing.
 Mr. Thibeault explained that he does not suspect that will be the case. He said that these dogs are Pointers and are very well trained. He explained that the day-care dogs will be exercised and that the dogs will be inside at night.

Jonathan Blake:

• The proposed septic system is not shown on the plans. Will it also be outside the 200 feet? Mr. Thibeault stated that it would, and he indicated the location on the plan.

Ann-Marie Aubrey:

- Stated that an as built should be required as a condition to verify that everything is being followed.
- Septic system will need to be shown on the mylars.
- Runs need to be shown on the mylar before it is recorded.
- Verify the distances between the wetlands.
- Any approvals from the State (waste disposal, etc.) provide copies to the Planning and Development Office.

Brian Card:

- Asked about vegetation in the area to the east (between the resident and the structure).
 Mr. Thibeault indicated on the Plan and stated that anything east of the trail is vegetated/wooded.
- Lights on the kennel runs
 There will be runs on both sides, but there will be no lights on the kennel runs as there will be no need for them at night.
- Customer access.
 - Mr. Thibeault explained that it would be by appointment only and that they need the parking spaces for when they have an event/hunting party.
- No other exterior lighting other than the three wall packs?
 Mr. Thibeault explained that they are to be dark-sky compliant, full cut-off wall packs.

Motion was made by Virge Lorents to close the public hearing for **Special Permit Application #21-1267**; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs. Second by John Sarantopoulos. No discussion.

Roll Call Vote: Virge Lorents – yes; Matthew Wendorf – yes; John Sarantopoulos – yes; Brian Card – yes; Keith Thurlow – yes. Motion carried unanimously (5-0-0).

VII. UNFINISHED BUSINESS – (review / discussion / action)

1) Zone Text Change #21-1265; Douglas Construction Company; Special Permitted Use; Add Section 420.2.2.q General Commercial Zone; Special Permitted Use; Distribution Center Facility. — CONT FROM JUNE 21. 2021

Motion was made by Brian Card to approve **Zone Text Change #21-1265**; Douglas Construction Company; Special Permitted Use; Add Section 420.2.2.q General Commercial Zone; Special Permitted Use; Distribution Center Facility, with the following modification:

• Item 2.d – Change "development standards" to "Zoning Regulations."

Effective date August 16, 2021, at 12:01 a.m.

Second by Virge Lorents. No discussion.

Roll Call Vote: Matthew Wendorf – yes; John Sarantopoulos – yes; Brian Card – yes; Virge Lorents – yes; Keith Thurlow – yes. Motion carried unanimously (5-0-0).

2) Special Permit Application #21-1267; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs.

Motion was made by Matthew Wendorf to approve Special Permit Application #21-1267; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs, with the following conditions:

- As-builts be submitted to Staff upon completion of work.
- Septic system and dog runs to be identified on the plans.

Second by Virge Lorents.

Motion was made by Brian Card to amend Matthew Wendorf's motion to approve Special Permit Application #21-1267; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs, to also include the following additional conditions:

- Lots 38-1 and 40 shall be combined and filed prior to construction activities.
- State of Connecticut Licensing shall be provided to the Town.

Second by Virge Lorents. No discussion.

Roll Call Vote on the Amendment to the Motion: John Sarantopoulos – yes; Brian Card – yes; Virge Lorents – yes; Matthew Wendorf – yes; Keith Thurlow – yes.

Amendment carried unanimously (5-0-0).

Roll Call Vote on the Main Motion as Amended: Brian Card – yes; Virge Lorents – yes; Matthew Wendorf – yes; John Sarantopoulos – yes; Keith Thurlow – yes.

Main Motion, as Amended, carried unanimously (5-0-0).

VIII. NEW BUSINESS – (review/discussion/action)

1) <u>Re-subdivision Application #21-1269</u>; Raymond and Diane Sorel; 1645 North Road; GIS MAP 21; LOT 20; ~50 acres; resubdivide into two lots; Lot 20 to be 5.58 acres; and Lot 20-3 to be 44.49 acres; Rural Development Zone. <u>Receive, and if complete, schedule for a public hearing on Monday, August 16, 2021.</u>

Ann-Marie Aubrey stated that it has been received in-house and that it appears to be complete.

Motion was made by Virge Lorents to schedule a public hearing for <u>Re-subdivision Application #21-1269</u>; Raymond and Diane Sorel; 1645 North Road; GIS MAP 21; LOT 20; ~50 acres; re-subdivide into two lots; Lot 20 to be 5.58 acres; and Lot 20-3 to be 44.49 acres; Rural Development Zone for the next regularly scheduled meeting of the Planning and Zoning Commission on Monday, August 16, 2021, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by John Sarantopoulos. No discussion.

Roll Call Vote: Virge Lorents – yes; Matthew Wendorf – yes; John Sarantopoulos – yes; Brian Card – yes; Keith Thurlow – yes. Motion carried unanimously (5-0-0).

2) Zone Text Change - #21-1270; Town of Killingly; Proposed Amendment to Article VI (Administration and Enforcement), (add) Section 640; Temporary and Limited Moratorium on Cannabis Establishments. Receive, and schedule for hearing on Monday, August 16, 2021, or Monday, September 20, 2021. (Per recommendation of Legal Counsel)

Town Attorney, Ken Slater explained that they are recommending putting a Moratorium in place because the Legislature did not put a date in it to give the towns an opportunity to decide whether to prohibit or regulate. Discussion ensued. Ms. Aubrey will advertise for it to be added to both Town of Killingly Zoning Regulations and Borough of Danielson Zoning Regulations. Attorney Slater stated that if it is clear in the notice, both Town and Borough Regulations could be done at the same public hearing.

Motion was made by Brian Card to receive and schedule a public hearing for **Zone Text Change - #21-1270**; Town of Killingly; Proposed Amendment to Article VI {Administration and Enforcement}, (add) Section 640; Temporary and Limited Moratorium on Cannabis Establishments for the next regularly scheduled meeting of the Planning and Zoning Commission on Monday, August 16, 2021, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m. Second by Matthew Wendorf. No discussion.

Roll Call Vote: Matthew Wendorf – yes; John Sarantopoulos – yes; Brian Card – yes; Virge Lorents – yes; Keith Thurlow – yes. Motion carried unanimously (5-0-0).

At 7:56 p.m., Mr. Thurlow called a brief recess to speak with Attorney Slater outside of the meeting. They both returned at 7:56 p.m.

IX. ADOPTION OF MINUTES – (review/discussion/action)

1) Regular Meeting Minutes – June 21, 2021

Motion was made by Virge Lorents to approve the Minutes of Regular Meeting of June 21, 2021. Second by John Sarantopoulos. No discussion.

Roll Call Vote: John Sarantopoulos – yes; Brian Card – yes; Virge Lorents – yes; Matthew Wendorf – yes; Keith Thurlow – yes. Motion carried unanimously (5-0-0).

X. OTHER / MISCELLANEOUS – (review / discussion / action)

1) <u>WORKSHOP</u> - <u>Zone Text Change Application #21-1264</u>; Town of Killingly; Special Permitted Use; Add Section 420.2.2.p General Commercial Zone; Special Permitted Use; Self-Service Storage Facilities.

Ann-Marie Aubrey explained that the Commission Members were provided with a draft copy (dated July 19, 2021) showing the changes/deletions and they were also provided a clean copy (dated July 19, 202) on which she noted that the following was added under #3 Prohibited Uses, Item b. Kenneling, storage, "or sale," of animals or pets. This language is also in Distribution Centers.

There was discussion with Town Attorney, Ken Slater regarding the following:

- 2.e. Attorney Slater suggested removing this item as the Commission's discretion is very broad under special permit review.
- 2.g. Change "development standards" to "Zoning Regulations."
- 2.i. Attorney Slater suggested leaving this language as is because a bathroom may be needed for staff or users.

There were no further changes suggested. Ms. Aubrey will incorporate the changes discussed and provide a new clean copy for review by the Commission at the next meeting, at which, a public hearing may be scheduled.

2) **WORKSHOP – Discussion** – should the zoning regulations allow for an accessory structure to be constructed on a vacant parcel of real estate without the primary structure being in place?

Town Attorney, Ken Slater, who explained that there is no such thing as an accessory use without a principal use. So, if there is a particular kind of accessory building or use that the Commission would like to be able to authorize, it would have to be made either a permitted use in the zone or a specially permitted use in the zone. Discussion ensued. Mr. Thurlow expressed that he would like to move forward with special permit. Ms. Lorents voiced agreement.

COMMENTS FROM THE PUBLIC:

Mike Cristina, Dayville, asked if he owned the lot across the street from his house, could he put a garage on that lot. Mr. Thurlow explained that he would not unless the Regulations are changed.

There was a consensus for Staff to draft language for review by the Commission. To start with: special permit; recreational use. Other items suggested for future discussion: definition; what zone(s) to allow it in; acreage requirement; must be associated with the individual owner; maintenance of the property itself; future construction of a residential property/tied to a future use; accommodate the layout for a house.

3) WORKSHOP - Discussion - Five Mile River Overlay District

Town Attorney, Ken Slater stated that Staff had some ideas regarding a need for a Natural Diversity Database and Flood Plain Elevations.

Attorney Slater discussed his concerns:

- Definition of appurtenance. He explained that the proposed language for the overlay only allows for the cutting of trees as minimally necessary to allow for an appurtenance. The Commission has, in the past, approved things like a lawn in association with a single-family home and other kinds of clearings that are reasonably associated with a use. That is the way Staff has been interpreting that Section and he said that it becomes problematic if you don't interpret it that way. Is the intent to limit the ability to build a house and a lawn within that zone?
- The blending and crossing over of the role of Wetlands Regulation and Zoning Regulation. When dealing with something several hundred feet from the river (beyond the regulated area from the IWWC), is the purpose of the Overlay to protect the river or does it have broader purposes?

Ms. Aubrey explained that Staff had considered the following: it is an overlay district, not a zone; there is a 200-foot upland review area; there is the flood plain; there could be areas of concern from the State regarding special species; they looked at Google Earth aerial photos along the river (there is a house right on the river with a dock — the only one with a dock). The current Staff was not here when the Overlay District was put in place, and they feel that it looks very arbitrary (e.g., it doesn't go the whole length of the Five Mile River and it is oddly shaped). Ms. Aubrey spoke of a subdivision that went in after the year 2000 (River Road) for which the whole area was pretty much cleared except for a few trees. Ms. Aubrey explained that snob zoning cannot be allowed, and she said that they follow the guidance of the DEEP. She suggested that they could look at the Five Mile River and determine what should be done based upon the scientific: 200-foot upland review area, the flood plain, areas of special species. They are willing to map these things out and overlay them and determine where the areas of concern are.

COMMENTS FROM THE PUBLIC:

Mike and Bev Cristina, Dayville, explained what they remembered about the beginnings of the Overlay District and why they decided to get involved at this time. Does it need to be tightened up, corrected, how to enforce? Mr. Cristina stated that regarding the boundaries, Terry Chambers (as a citizen) had followed the roads and presented it to Staff. They provided photos of relatively new homes along Stone Road which have cleared for lawns and have out buildings, but they stated that only a couple (recently) have cleared down to the river.

Discussion ensued. Mr. Card noted that there is a problem that needs to be addressed and there was discussion regarding appurtenances which, Attorney Slater noted, are not always structures. Attorney Slater does not think that the intent was to outlaw single-family homes and subdivisions. He said it is a good time for the Commission to evaluate what they think should be permitted, or not, in that area and why. He said that when he reviewed the various criteria, it all seemed to tie into the environmental protection component of it. Regarding existing fields, Attorney Slater asked if it is the intent to prohibit agriculture that is not there already.

Bev Cristina stated that the original intent of the entire Overlay was simply to protect the river. She said that there are endangered species which are shown on a map that they had provided. Mr. Card stated that they need to better define the area with a scientific definition of what encompasses the Overlay District. Mr. Cristina stated that the regulations exist, and they should be enforced. Mr. Card stated that they are enforced to the extent that they can be.

There was discussion regarding Chase Road (Mr. Cristina provided a photo). Mr. Cristina stated that unless people know that they aren't supposed to do something, they just do it. Discussion continued.

Matthew Wendorf voiced agreement with Brian Card's earlier statement and moving forward with re-evaluating. Virge Lorents voiced concern for protecting all of Killingly's water bodies. Brian Card stated that it needs to be addressed and that they can't atone for sins of the past and feels that the Commission should start fresh and rewrite it. John Sarantopoulos agrees with looking at it and re-writing if needed and he voiced concern regarding enforcement. There was discussion about whether IWWC had approved this and there was discussion regarding whether forestry work is exempt, and Attorney Slater confirmed that some forestry activities (which fall under agricultural) are exempt (automatically permitted activity) from IWWC approval.

There was a consensus to move forward with a workshop on reviewing the regulation, in its entirety, and then decide what to do. Staff will put on the agenda and update the Commission monthly.

XI. CORRESPONDENCE

1) Received June 21, 2021- Letter from Centerline Communications; re: 1375 North Road, Dayville, CT 06241; Notice of Exempt Modifications to an AT&T site; swapping six (6) antennas, adding nine (9) remote radio units, removing three (3) remote radio units, removing two (2) tower mounted amplifiers; and appropriate cables and mount modifications as required. Full / Complete correspondence in Planning & Development Department for review.

No discussion.

XII. DEPARTMENTAL REPORTS – (review/discussion/action)

- A. Zoning Enforcement Officer's & Zoning Board of Appeal's Report(s) No report.
- B. Inland Wetlands and Watercourses Agent's Report No report.
- C. Building Office Report No report.

XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT

Jill St. Clair reported:

- Discussions took place on June 22nd regarding Industrial Park infrastructure, brownfield funding, workforce initiatives and workforce housing needs.
- KBA hosted the first of three food truck events on July 10th which was a huge success with over 2,000 attendees.
 Next events o be held on August 14th and September 11th.
- Town of Killingly to be featured in the September/October issue of Business View Magazine.
- On July 22nd, we will be hosting a workshop to show businesses how to procure federal, state, and local contracts.

XIV. TOWN COUNCIL LIAISON REPORT – No representation.

XV. ADJOURNMENT

Motion was made by Virge Lorents to adjourn at 9:07 p.m. Second by John Sarantopoulos. No discussion. Motion carried unanimously by voice vote (5-0-0).

Respectfully submitted,

J.S. Perreault Recording Clerk